

**TITLE 22. EMERGENCY MEDICAL SERVICES AUTHORITY**  
**NOTICE OF REGULATORY ACTION**

The Emergency Medical Services Authority (EMS Authority) is proposing to amend the Emergency Medical Technician-Paramedic (Paramedic) regulations contained in the California Code of Regulations (CCR), Title 22, Division 9, Chapter 4, as described in the Informative Digest.

**WRITTEN COMMENTS AND AGENCY CONTACTS**

Interested parties are invited to submit written comments to the proposed regulatory action. A 45-day written comment period is provided from April 27, 2001 through June 11, 2001. The written comment period closes at 5:00 p.m. on June 11, 2001, and comments received after this date will not be accepted. The rulemaking file for the proposed regulatory action is available for review from 9 a.m. until 4 p.m., Monday through Friday, at the EMS Authority located at 1930 – 9th Street, Sacramento, California. To schedule a review of the rulemaking file, submit written comments, or obtain answers to questions on the substance of the regulations, contact the following agency officers:

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**PUBLIC HEARING**

The EMS Authority will hold a public hearing to permit interested parties the opportunity to present statements, arguments, and written comments relevant to the regulatory action. The public hearing will be held on:

Date: June 11, 2001  
Time: 9:00 a.m. to 2:00 p.m.  
Location: EMS Authority, 1930 9th Street, Sacramento, CA 95814

**AVAILABILITY OF TEXT OF INITIAL STATEMENT OF REASONS AND  
TEXT OF PROPOSED REGULATIONS**

Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, the "EMS Authority Recommended Guidelines for Disciplinary Orders and Conditions of Probation", and other information will be available on the EMS Authority

website at [www.emsa.ca.gov](http://www.emsa.ca.gov), at the office of the EMS Authority at the address listed above and at the public hearing noted above.

### **AUTHORITY AND REFERENCE**

H&SC Section 1797.107 authorizes the EMS Authority, upon approval of the Commission on Emergency Medical Services, to adopt, amend or repeal regulations, which would implement, interpret, or make specific the provisions of H&SC, Division 2.5, for the development and maintenance of emergency medical services (EMS) in California. H&SC Section 1797.176 requires that the EMS Authority establish the minimum standards for the policies and procedures necessary for medical control of the EMS system. H&SC Section 1797.172 authorizes the EMS Authority to develop standards, policies and procedures for the training, scope of practice, licensure, and relicensure of paramedics.

The proposed amendments to Section 100177 of Title 22 are to implement and make specific H&SC Section 1797.172, which allows the EMS Authority to charge fees for licensure and licensure renewal in an amount sufficient to support the licensure program at a level that ensures the qualifications of the individuals licensed to provide quality care. The proposed changes require a fee for the late submission of an application for paramedic licensure and fees to cover the costs of investigation when an applicant has been convicted of a misdemeanor or felony. According to H&SC Section 1797.172, separate additional fees (such as those proposed for inclusion in Section 100177 of Title 22) may be charged, at the option of the authority, for services that are not shared by all applicants for licensure and licensure renewal.

The proposed amendments to Section 100178 of Title 22 will implement and make specific H&SC Section 1798.200 and 1798, which authorize the EMS Authority to take disciplinary action against a paramedic license and to establish guidelines for disciplinary proceedings. The proposed changes are also to implement and make specific Section 11415.60 of the Administrative Procedure Act, which authorizes state agencies to enter into negotiated settlements for disciplinary actions without conducting an adjudicative proceeding. Chapter 5 (commencing with Section 11500 of Part I of Division 3 of Title 2 of the Government code specifies the process for adjudication. These proposed regulation changes provide a foundation for negotiated settlements and for an administrative law judge's recommendation for disciplinary action when violations of H&SC Section 1798.200 occur.

The proposed addition of Section 100178.1 of Title 22 is to implement, interpret, and make specific H&SC Section 1798.200, which authorizes the EMS Authority to deny or revoke a paramedic license for cause.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Emergency Medical Services Authority (EMS Authority) is proposing to amend portions of the Emergency Medical Technician-Paramedic (Paramedic) regulations contained in the California Code of Regulations (CCR), Title 22, Division 9, Chapter 4, Sections 100135 - 100180. These regulations specify the training, scope of practice, licensure, relicensure, continuing education, local accreditation and disciplinary actions for paramedics pursuant to Division 2.5 of the Health and Safety Code (H&SC).

The specific sections the EMS Authority is proposing to revise or amend are Section 100177, Fees, and Section 100178, Proceedings. The EMS Authority is also proposing to add Section 100178.1, Denial/Revocations Standards, and to incorporate by reference "Recommended Guidelines for Disciplinary Orders and Conditions of Probation", dated (to be filled in by OAL upon filing with the Secretary of State).

The addition of specific fees to Section 100177 is being proposed to ensure the timely processing of late applications and to cover the costs associated with conducting an investigation for paramedics who have criminal convictions. The language being added to Section 100178 is to incorporate by reference the "Recommended Guidelines for Disciplinary Orders and Conditions of Probation" to ensure consistent and equitable discipline of paramedics when violations of HS&C, Division 2.5, Section 1798.200 have occurred. The "Guidelines" will also be used by an administrative law judge as a guide in making recommendations to the EMS Authority for discipline of a paramedic applicant or license holder. The addition of Section 100178.1 is to provide clear standards to be used when denying or revoking a paramedic license.

Subsections (5), (6), (7), and (8) of Section 100177(b) are being renumbered to (6), (7), (8), and (9) respectively to ensure consistency in the sequential numbering with the rest of subsection (b).

### **Section 100177. Fees (b)(4)(9)&(10)**

The EMS Authority is the agency solely responsible for the licensure, licensure renewal and discipline of paramedics as required by H&SC, Division 2.5, Section 1797.172(c). This function was moved from the local EMS agencies (counties or region of counties) temporarily in July 1993 and then permanently in January 1994. Since the time that the EMS Authority began licensing paramedics, the number of licensed paramedics has increased from approximately 7000 to 10,500. This is an increase of 3500 licensed paramedics over the last 7 years or approximately 500 per year.

#### **Subsection (b)(4)**

The EMS Authority is proposing to establish a \$50 fee for paramedics who fail to submit an application for renewal within the timeframe specified in Section 100163(b), or for paramedics whose license has lapsed. Section 100163(b) of the California Code of

Regulations states "Applications for renewal of license shall be received by the EMS Authority at least thirty (30) calendar days prior to expiration of current license." However, the percentage of applications received less than 30 days prior to the paramedic's expiration date has been steadily increasing every year and now average about 40-50% of the applications received by the Paramedic Unit and there is nothing in regulation to ensure compliance with the 30-day requirement.

Because of the increase in the number of licensed paramedics and the number of paramedics that do not submit their applications on time, it is becoming increasingly difficult to process the license renewal applications prior to the paramedic's expiration date. The EMS Authority has been unsuccessful in obtaining approval for additional personnel positions to handle the processing of the increased number of applications and late renewal applications. The addition of this fee is necessary to fund the additional hours of staff time required to process the late applications before the paramedics' licenses expire and to fund the use of student assistants to perform the less complicated tasks in the Paramedic Unit. This fee would encourage paramedics to submit their renewal applications at least 30 days before the expiration date of their license as required by the regulations. This would help ensure that a paramedic's license does not expire causing the paramedic to be unable to work and potentially cause a threat to public safety by having an insufficient number of licensed paramedics to respond to 9-1-1 calls. This fee can be avoided by paramedics if they submit their applications in the time required.

Paramedic license renewal applications are sent to the paramedics approximately four (4) months prior to the expiration date of their license. In many instances, paramedics move during their two-year licensure cycle but fail to notify the EMS Authority of their change of address. When they realize that their license is about to expire, they call the EMS Authority requesting that their license application be mailed to the new address or faxed. In addition, once the license application is processed, the paramedics that have submitted a late application request that the EMS Authority fax the information to their local EMS Agency so their county accreditation does not expire. This special handling requires a considerable amount of staff time.

In addition, although licensed paramedics are required to notify the EMS Authority of a change of address within 30 days, there is no penalty for failure to do so. This fee would encourage paramedics to notify the EMS Authority of a change of address so they would receive their renewal applications in sufficient time to submit the application at least 30 days prior to their expiration date as required by Section 100163(b). It is also necessary to have a current address for other notices that are sent to the paramedics and for the investigative staff to be able to contact paramedics in cases involving disciplinary actions.

When a renewal application is received for a lapsed license, the additional \$50 fee is necessary to ensure that the EMS Authority has the resources to verify that the paramedic's continuing education was obtained during the two years preceding the date the application is received and to verify the required additional continuing education for an individual whose license has lapsed more than 6 months.

### Subsection (b)(9) & (10)

The EMS Authority is proposing to establish a fee of \$200 to cover the costs of conducting an investigation into prior criminal convictions by initial applicants for a paramedic license. This fee would be limited to those applicants previously convicted of a felony or misdemeanor and would not include convictions classified as infractions. In addition, the EMS Authority is proposing establishing a fee of \$100 for renewal applicants who disclose a felony or misdemeanor conviction that occurred during their previous licensure cycle. These fees would not be imposed on any other type of investigations conducted by the EMS Authority.

These fees are necessary because the increase in the number of investigations conducted by the EMS Authority's Enforcement Unit have required the EMS Authority to hire Student Assistants to help the regular staff investigate these cases. Since the EMS Authority began investigating paramedics who have a criminal history, the number of investigations per year has increased from 64 in 1996 to 185 in 2000.

The \$200 fee is based on a workload analysis conducted by the EMS Authority. These investigations are currently being conducted by the Enforcement Unit's Student Assistants with guidance and assistance from the rest of the staff in the Unit. The average time spent to investigate an applicant's criminal past is estimated at 20 hours and is generally conducted by a Student Assistant who is paid \$10 per hour. Each investigation generally consists of (1) preparing a case file; (2) obtaining and reviewing copies of court convictions, police reports, DMV records, and local EMT applications; (3) interviewing the applicant by phone or in person, when necessary; and (4) preparing a case summary with licensure recommendation. The \$100 fee is a lesser amount because most offenses disclosed on renewal applications are single incidents, such as driving under the influence or domestic violence and take less time to investigate.

An alternative to assessing these fees would be to raise the costs of the licensure fees, but the EMS Authority does not feel it is appropriate to assess a fee on all applicants for a condition that only pertains to about one percent of the paramedic applicant population.

### **Section 100178. Proceedings**

H&SC, Division 2.5, Section 1798.200 authorizes the EMS Authority to deny, suspend or revoke or place on probation a paramedic license when there has been a violation of this Section. It also states that proceedings against the paramedic license or license holder shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part I of Division 3 of Title 2 of the Government Code. Currently, there are no clear standards as to what action may be taken for a particular violation. H&SC Section 1798.204 specifies that proceedings for disciplinary action shall be conducted in accordance with guidelines established by the EMS Authority.

The EMS Authority is proposing to add two new subsections, (c) & (d), under Section 100178. Subsection (c) is to incorporate by reference the "Recommended Guidelines for Disciplinary Orders and Conditions of Probation", dated (to be filled in by OAL upon filing with the Secretary of State) to the Paramedic Regulations. Subsection (d) is being added to define the use of the "Guidelines". The EMS Authority will use these "Guidelines" as the standard in settling disciplinary matters when a paramedic applicant or license holder is found to be in violation of H&SC, Section 1798.200. Also, an administrative law judge will use these guidelines as a guide for making any recommendations to the EMS Authority for discipline of a paramedic applicant or license holder found in to be violation of H&SC, Section 1798.200 when conducting an adjudicative proceeding.

### **Section 100178.1. Denial/Revocation Standards**

H&SC, Division 2.5, Section 1798.200 gives the EMS Authority the authority to deny, suspend or revoke or place on probation a paramedic license when there has been a violation of this Section of the H&SC, but there are no clear standards in regulation as to what disciplinary action may be taken for a particular violation.

The EMS Authority is proposing to add Section 100178.1 Denial/Revocation Standards to the paramedic regulations to define the denial/revocation standards that the EMS Authority will use for specific criminal convictions, or in some cases the commission of specific criminal acts, that are substantially related to the qualifications, functions and duties of a paramedic. The EMS Authority will use this section to ensure clear, consistent and equitable causes for the denial/revocation of a paramedic license when a paramedic applicant or a licensed paramedic has been convicted of, or has committed, one or more of the crimes specified in this section. This section further specifies that it will not apply to paramedics who obtained the paramedic license prior to the effective date of this section unless certain conditions exist. It also allows the director of the EMS Authority to grant a license to anyone otherwise precluded by these standards if the director believes that extraordinary circumstances exist to warrant an exemption. Paramedic training programs will also use this section to advise a potential student, who has a criminal conviction, that he/she may not be eligible for paramedic licensure, depending on the conviction, and to encourage the individual to contact the EMS Authority prior to entering into paramedic training to assess the individuals likelihood of being eligible for licensure upon successful completion of paramedic training.

### **Recommended Guidelines for Disciplinary Orders and Conditions of Probation**

H&SC, Division 2.5, Section 1798.200 gives the EMS Authority the authority to deny, suspend or revoke or place on probation a paramedic license when there has been a violation of this section of the H&SC, but there are no clear standards as to what disciplinary action may be taken for a particular violation.

The EMS Authority is proposing to incorporate by reference the "Recommended Guidelines for Disciplinary Orders and Conditions of Probation" dated (to be filled in by

OAL upon filing with the Secretary of State). These "Guidelines" were developed by the EMS Authority in consultation with representatives of fifteen EMS constituent groups throughout the state that would be affected by the paramedic regulations. The purpose of these "Guidelines" is to provide a consistent and equitable discipline in cases of violations of H&SC, Section 1798.200. The EMS Authority will use this document as a standard in settling disciplinary matters when a paramedic, who has been accused of a violation of Section 1798.200, wishes to resolve the allegations through a negotiated settlement. However, the settlement may be on any terms the parties determine are appropriate pursuant to Section 11415.60 of the California Administrative Procedure Act. The paramedic will be allowed representation of his/her choice through all processes of an investigation, filing of an accusation, negotiation of a settlement, and during an administrative hearing. The administrative law judge will use this document as a guide in making his/her recommendations for discipline to the EMS Authority should the accused paramedic invoke his/her privilege to contest the allegations through the Administrative Procedure Act.

The "Guidelines" set maximum, recommended and minimum disciplinary actions that can be taken against a paramedic who has committed a violation of H&SC Section 1798.200. The "Guidelines" also set standard conditions of probation, which are used in all cases in which a paramedic's license has been placed on probation, and optional conditions of probation, which are related to the specific violation.

The "Guidelines" also establish a Review Board to meet the requirements of specific conditions of probation that require a paramedic to take a written and/or practical skills exam. The Review Board would be responsible for testing the paramedic when required per the terms and conditions of probation and then submit to the EMS Authority its recommendation as to whether the paramedic has successfully completed the exam(s). The Review Board will consist of an EMS physician, a paramedic and an EMS educator that must meet certain criteria as described in the "Guidelines".

#### **MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

The EMS Authority has determined that the proposed amendments to the regulations do not impose a mandate on local agencies or school districts.

#### **ESTIMATE OF COST OR SAVINGS TO ANY STATE OR LOCAL AGENCY OR SCHOOL DISTRICT**

Cost or Savings to Local Agencies: The EMS Authority has determined that there will be an cost to some local agencies by the proposed amendments to the regulations. City or county fire departments that pay the license renewal fees of their paramedics could be impacted by the fee for failing to submit a renewal application 30 days before the expiration date of the paramedic license, or submitting an application after the license has expired. This fee can be avoided if the license application is submitted 30 days before the expiration date of the license as required by Section 100163(b) of the regulations.

The EMS Authority has also determined that the proposed regulation adding a fee for background investigations for paramedics that have a criminal history could affect some city and county fire departments that pay the fees associated with their employees obtaining or renewing their paramedic license. However, because this only affects approximately one percent of paramedics and paramedic applicants statewide, it is expected that the costs would be minimal and would only affect a small number of city and county fire department employees.

**Cost to State Agencies:** The proposed amendments to the regulations would result in cost savings to the EMS Authority. The fee for failing to submit a renewal application within the timeframe required in Section 100163(b) or submitting an application after the license has expired would result in revenue sufficient for the EMS Authority to process late applications timely and verify continuing education as required. In addition, the revenue generated by the fees for investigations of applicants with misdemeanor or felony convictions would provide for the timely conduct of investigations that would result in licensure decisions that would ensure the protection of the public health and safety

**Costs to School Districts:** The EMS Authority has determined that these proposed regulations will have no cost or savings to school districts.

The EMS Authority has also determined that there are no other non-discretionary costs imposed upon local agencies by the proposed amendments to the regulations. There is no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4. It is permissive and not mandatory for counties to have an emergency medical services program (H&SC Section 1797.200).

### **IMPACT ON BUSINESSES**

The EMS Authority has made an initial determination and declares that the proposed amendments to the paramedic regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The EMS Authority has relied on seven years experience of licensing and disciplining paramedic applicants and license holders and in discussions with representatives of EMS constituent groups and other state licensing agencies in making this determination.

### **COST IMPACTS TO REPRESENTATIVE PRIVATE PERSONS OR BUSINESS**

The EMS Authority has determined that the cost to representative private persons or businesses would be minimal.

The \$50 fee for failing to submit an application as required by Section 100163(b) would be applicable only if the paramedic license renewal application is not received by the EMS Authority 30 days before the license expiration date. Since paramedics are only



required to submit a renewal application every two years, even if the application is late, the cost would only be \$50 every other year and could be avoided by filing the renewal application on time as currently required in the regulations. The \$200 and \$100 investigation fees are onetime only fees and would only be assessed on paramedic initial applicants or renewal applicants that have a criminal history.

The EMS Authority has determined that the proposed regulation of a fee for failing to submit a renewal application within the timeframe required in Section 100163(b), would only affect private ambulance companies that pay the license renewal fees of their paramedics. If the license application is submitted on time, there would be no additional costs or savings.

The EMS Authority has also determined that the proposed regulation adding the fees for a background investigation for paramedics that have a criminal history could affect private ambulance companies that pay the fees associated with their employees obtaining or renewing their paramedic license. However, because these fees would only affect approximately 1% of paramedic applicants statewide, the costs would be minimal to any one agency. Very few private ambulance companies pay fees associated with licensure for their paramedics.

#### **SMALL BUSINESS IMPACT STATEMENT**

The EMS Authority has determined that the proposed amendments to the regulations may affect small business.

#### **POTENTIAL ECONOMIC EFFECT**

The EMS Authority has made an assessment that the proposed revisions to the regulations will not create or eliminate jobs in California, will not create new businesses or eliminate existing businesses in California, and will not affect the expansion of businesses currently doing business in California.

#### **FEDERAL FUNDING TO THE STATE**

The EMS Authority has determined that the proposed revisions to the regulations will not result in any costs or savings in federal funding to the state.

#### **EFFECT ON HOUSING**

The EMS Authority has determined that the proposed revisions to the regulations will not have a fiscal impact on housing costs.

## **CONSIDERATION OF ALTERNATIVES**

The EMS Authority must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the EMS Authority would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. Therefore, the EMS Authority invites interested persons to present statements or arguments during the public comment period or at the public hearing noted above with respect to alternatives to the proposed regulation revisions.

An alternative considered by the EMS Authority was to seek legislation to increase the licensing fee. However, the EMS Authority felt it was unfair to charge all licensees a fee for the late submission of an application and a fee to cover the costs of an investigation when only a percentage of the licensees would be subject to the fees and when the fee could be avoided as in the case of a late application. Not all licensees should be penalized for the actions of a few. Also, the licensing fee is set in statute, and there has not been administrative or constituent support for increasing the licensing fees.

## **FINAL ADOPTION OF REGULATIONS**

Following the public hearing, the Commission on Emergency Medical Services may approve for adoption the proposed revisions to the Paramedic Regulations as described in this notice. If approved, copies of the regulations as finally adopted will be sent to all persons on the EMS Authority's mailing list. In addition, a copy of the Final Statement of Reasons will be available on the EMS Authority's website, [www.emsa.ca.gov](http://www.emsa.ca.gov), or by calling or writing the EMS Authority's contacts as identified in this notice.

However, if as a result of public comment (oral or written), substantial changes to the regulations are deemed appropriate, copies of the changes will be sent to all persons on the EMS Authority's mailing list, all persons who testified at the public hearing or who submitted written comments during the comment period or at the public hearing, and to those who have requested copies of information regarding the regulation revisions. The EMS Authority will then accept written comments, arguments, or evidence for a period of at least 15 days after the date on which the changes were made available.